

THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

WP No.14882/94

DT.14-2-2006

N.R. Sunder Raj,
Special Deputy Tahsildar,
A.P. State Financial Corporation
(on deputation from Revenue Department)
Vijayawada. ...Petitioner

V.

The Collector, Krishna District at Machilipatnam. ... Respondent

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ORAL ORDER

While the petitioner was working as Special Deputy Tahsildar (PDS), Andhra Pradesh State Financial Corporation, Jaggaiahpet, A.P. Legislative Committee on Scheduled Caste Welfare has entertained a doubt regarding the caste claimed by the petitioner and referred the matter to the Mandal Revenue Officer, Jaggaiahpet, who after due enquiry submitted his report on 17-8-1992 stating that the petitioner

originally belonged to Christianity and after his educational career and acquiring Post Graduate degree, he converted himself to Hinduism through Andhra Suddi Sangham and issued a certificate to that effect on dt. 17-8-1992. Again the matter was referred to the Sub-Collector, Vijaywada and Mandal Revenue Officer, Vijayawada Rural, as the individual is a native of Ambapuram village. The Mandal Revenue Officer, Vijaywada (Rural) enquired into the matter and submitted his report dt. 6-5-1994 stating that the parents of the individual originally belonged to Hindu Madiga community and later converted to Christianity and hence the individual is a Christian by birth and throughout his educational career also, he was treated as Christian only. The Sub-Collector, Vijayawada through his letter dt. 17-5-1994 reported to the District Collector, Krishna at Machilipatnam, on the basis of the record of enquiry conducted by the Mandal Revenue Officer, Vijayawada Rural, that there is no evidence to prove that the caste of the petitioner is Hindu Madiga and concluded that petitioner is "not Hindu Madiga" by caste. Basing on the above reports, the Collector initiated enquiry into the caste as per A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act 16/1993") in accordance with the powers conferred on the District Collector through G.O.Ms.No.282 (SW) Department dt. 19-12-1988 by providing personal hearing. Accordingly, a notice has been issued to the petitioner calling upon his explanation. After due enquiry into the matter, he cancelled the Scheduled Caste Certificate issued by the then Mandal Revenue Officer, Jaggaiahpet dt. 17-8-1992 in favour of the petitioner by the impugned order dt. 9-8-1994. Questioning the legality and validity of the same, the present writ petition has been filed contending that once the parents of the petitioner were originally Hindus belonging to a Scheduled Caste (Madiga) but converted to Christianity and after petitioner attaining majority, he will have an option to re-convert to Hinduism and on such re-conversion, he relegates back to original community, therefore, he is entitled to be treated as a Scheduled Caste subject to the community people admitted him into their community fold. It is not necessary to have any religious function for such conversion and acceptance of community people is sufficient to establish that he has re-converted to Hinduism and acquired status of a Scheduled Caste, which their parents belonged prior to conversion. In view of the same, cancellation of certificate by the District Collector is contrary to the judicial decisions and the same is liable to be set aside.

Resisting the claim of the petitioner, the District Collector filed counter-affidavit

admitting the initiation of enquiry under the provisions of the Act No.16/1993 and cancelling the caste certificate issued in favour of the petitioner. In view of G.O.Ms.No.5 Social Welfare (P) Department dt. 24-1-1981, whereunder State Government, ordered that a Scheduled Caste converts to Christianity and their progeny shall be treated as B.C. (c), the petitioner cannot claim any benefits as a Scheduled Caste on such re-conversion. The petitioner was born to Christian and lived as Christian throughout his educational career upto Post Graduation and claimed to be converted to Hinduism through a ceremony of Andhra Suddi Sangham, which is not authorised to issue such certificate as per the Government instructions. The certificate obtained is with an ulterior motive to get benefits extended to Schedule Caste community and also to get promotions, therefore, the caste certificate issued by the Mandal Revenue Officer, Jaggaiahpet is liable to be set-aside.

Sri P.V. Sanjay Kumar, learned counsel for the petitioner submits that the impugned order passed under the Act No.16/1993 is nullity since the said Act came into force w.e.f. 15-5-1997 as per G.O.Ms.No.57 Social Welfare (J) dt. 8-5-1997. Rules which were framed on coming into force of the Act No.16/1993 obviously cannot be followed since the impugned order is passed even before the said rules were framed. He further contends that civil court will not have jurisdiction under the said Act No.16/1993 and the only remedy available to the petitioner is to invoke the jurisdiction of this court under Art. 226 of the Constitution of India by placing reliance on the judgment of this court in **VINAYA WINES V. CTO**. He further contends that when his father and forefathers are Madigas, he can choose to convert to Hinduism on attaining majority and on such conversion, he is to be treated as a Schedule Caste, their parents' caste. In support of his contentions, he placed reliance on the following decisions:

1. **GUNTUR MEDICAL COLLEGE V. MOHAN RAO.**
2. **C.M.ARUMUGAM V. S. RAJGOPAL**
3. **GUNTAGANI SUDHAKAR V. PRINCIPAL S.V.M.C.**
4. **KAILASH SONKAR V. MAYADEVI**
5. **PUNIT RAI V DINESH CHAUDHARY**

Learned Government Pleader for Social Welfare while refuting the submissions made by the learned counsel for the petitioner contends that once the petitioner is born Christian, on the basis of the certificate issued by Andhra Suddi Sangham dt.4-10-1974 the petitioner cannot obtain caste certificate from the Mandal Revenue Officer on 17-8-1992. When the petitioner pursued his education throughout as a Christian and he belongs to Ambapuram and there is no evidence to show that his community people of Ambapuram admitted him to their community fold, Andhra Suddi Sangham who is having their office at Guntur cannot issue a certificate admitting the petitioner into their community fold. As per G.O.Ms.No.5 Social Welfare (P) Department dt. 24-1-1981 any Christian who converts to Hinduism can be treated only as B.C. (c) but not a Schedule Caste, therefore, certificate issued by the Mandal Revenue Officer treating him as Schedule Caste is contrary to the instructions issued in G.O.Ms.No.5 dt. 24-1-1981 and District Collector rightly cancelled the same. He further contends that the Collector is competent under G.O.Ms.No.282 dt.19-12-1988 to cancel the caste certificate but mere quoting wrong provisions of the Act No.16/1993 will not take away the jurisdiction conferred on him to cancel the certificate.

It is not in dispute the parents of the petitioner were converted from Hinduism to Christianity before petitioner is born a and petitioner pursued his educational career as a Christian and after completion of his education and acquiring Post-Graduate Degree, he made a representation to the Andhra University for recognising him as a Scheduled Caste stating that he re-converted to Hinduism and to the said effect Andhra Suddi Sangham issued a certificate. Based on the same, the Vice-Chancellor, Andhra University, Waltair, issued proceedings dt. 17-2-1979 recognising the change in his religion from "Indian Christian" to "Hindu". When he joined service, he obtained certificate from the Mandal Revenue Officer dt. 17-8-1992, which has now been cancelled by the District Collector, through the impugned proceedings.

An identical question, whether a person whose parents belongs to a scheduled caste before their conversion to Christianity can on conversion or re-conversion to Hinduism be regarded as a member of the schedule castes so as to be eligible for the benefit of reservation of seats for scheduled castes in the matter of admission to

a medical college was cropped up for consideration before the Supreme Court in **Guntur Medical College** (2 supra). The facts are that petitioner was born Christian, whose parents have been originally professed Hindu religion and belonged to Madiga caste converted to Christianity. During the relevant time, it is regarded that person converts to Christianity is treated as belonging to backward class. Therefore, the respondent applied for admission to Gandhi Medical College in 1973 describing himself as a member of a backward class. Thereafter he got himself converted to Hinduism from Andhra Pradesh Arunachatiya Sangham stating that he renounced Christianity and embraced Hinduism after going through Suddhi ceremony. On the strength of the caste certificate, he applied for admission to Guntur Medical College and he was selected provisionally on the basis that he was a member of a scheduled caste. Subsequently when his selection was cancelled, he successfully challenged the same before this court, and the matter was carried in appeal to Supreme Court by the college authorities. The Supreme Court after following the dicta laid down by it in **C.M. Armugam** (3 supra) held that even assuming on conversion to Christianity, the parents of the petitioner lost their membership of Madiga caste and that the petitioner was, therefore, not a Madiga by birth. It was further held that on his subsequently embracing Hinduism, a person born of Christian converts would not become a member of the caste to which his parents belonged prior to their conversion to Christianity, automatically or as a matter of course, but he would become such member, if the other members of the caste accept him as a member and admit him in to their community fold.

This court in **Guntagani Sudhakar** (4 supra) held that even if the father of the petitioner was at one time shown as Christian, it is not unreasonable to infer that by 1965, at least, he had started professing Hindu religion, and therefore, the petitioner can be said to be a member of Adi Andhra (Madiga or Arundhatiya community or caste) and professing Hindu religion since 1965 at least and satisfied all the requirements of the Presidential Order and further held that on the date on which the application was made by the petitioner seeking admission into Medical College under the seat reserved for Schedule Caste in 1974 he was an Adi Andhra professing Hindu religion and there is no necessity that he should have been an Adi Andhra professing Hindu religion by birth. In **Kailash Sonkar** (5 supra) a Christian by birth when converted to Hinduism and married a member of the Scheduled Caste

was held to be belonging to her husband's caste on the evidence that she had not only been accepted but also welcomed by the important members, including the President and Vice-President of the community. In the present case, except certificate issued by Andhra Suddhi Sangham, on which basis certificate obtained by the petitioner from the Mandal Revenue Officer, Jaggaiahpet, no other evidence has been let in by the petitioner. The evidence and the statements made by the villagers before the Enquiry Officer, Ambapuram village are stereo typed statements. No evidence has been let in to show about the petitioner had been admitted by his community caste people in to their fold. Learned counsel for the petitioner across the bar submits that on such conversion he married SC girl and through whom he begotten three children who are all treated as SC candidates and benefits were extended to them as that of the SC candidates. But there is no such evidence adduced by the petitioner before the Enquiry Officer. In view of the same, it is imperative for the petitioner to establish the said facts by adducing sufficient evidence before the Enquiry Officer.

Accordingly, the impugned order passed by the District Collector, Krishna at Machilipatnam dt. 9-8-1994 observing that a scheduled caste person converts to Christianity and their progeny shall be treated as B.C (c) only, is contrary to the law declared by the Supreme Court and the same is accordingly set-aside and the matter is remitted to the District Collector who shall conduct an enquiry according to the Act No.16/1993 after giving sufficient opportunity to the petitioner and pass appropriate orders. This exercise shall be completed within a period of six months from the date of receipt of a copy of the order.

The Writ Petition is accordingly allowed. There shall be no order as to costs.

14-2-2006

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